

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
November 9, 2005

ITEM: 13

SUBJECT: Cleanup and Abatement Order No. R9-2005-0017 to the Bulen Family Trust for discharges of chlorinated waste to waters of the state in violation of the Porter-Cologne Water Quality Control Act. (*Laurie Walsh*)

PURPOSE: Affirm the issuance of Cleanup and Abatement Order No. R9-2005-0017.

PUBLIC NOTICE: The Agenda notice for the November 9, 2005 Regional Board meeting serves as the public notice for this item.

DISCUSSION: On August 23, 2005 and pursuant to California Water Code Section 13304, the Executive Officer issued Cleanup and Abatement Order No. R9-2005-0017 (Document No. 2) to the Bulen Family Trust (hereinafter Discharger) for discharges of waste to both land and ground water from the site currently occupied by Lovett's One Hour Dry Cleaners at 1378 East Grand Avenue in Escondido, California (the Site) (Document No. 5). Cleanup and Abatement Order No. R9-2005-0017 requires the Bulen Family Trust to (1) cleanup and abate the waste discharged, (2) develop and submit a work plan designed to guide the collection of additional soil and ground water data to complete the site investigation and characterization effort, (3) prepare and submit a Site Investigation and Characterization Report that documents the extent of impacts from the waste discharged, (4) prepare and submit a Feasibility Study that evaluates cleanup and abatement alternatives and presents a preferred cleanup alternative, (5) prepare, submit, and implement a Remedial Action Plan, and (6) prepare and submit a Remedial Action Report to verify completion of the cleanup and abatement actions take at the Site.

Initial site investigation was conducted between 1998 and 2004 under the regulatory oversight of the County of San Diego Department of Environmental Health (County DEH). Through the County DEH's Voluntary Assistance Program (VAP) notification process the Regional Board reviewed the County DEH's closure summary report on this Site. After review of the case closure report and the County DEH's case file on the Site, the Regional Board determined that the County DEH never required the Discharger to conduct a remedial action at the Site.

Coupled with the fact that no remedial action occurred at the Site, the discharge of waste to soil and ground water has not been adequately defined. Inadequate definition of Site contamination restricts the Discharger's ability to conduct an adequate remedial alternatives analysis and to implement appropriate remedial actions.

Cleanup and Abatement Order No. R9-2005-0017 was issued based upon findings of incomplete site assessment and in situ waste concentrations in excess of Basin Plan water quality objectives. Site assessment is incomplete because soils containing chlorinated solvent waste are elevated at depth (e.g. Tetrachloroethylene – PCE at 55,000 ug/kg at 14 feet below ground surface (bgs)) and in shallow soils (e.g. Trichloroethylene – TCE at 260,000 ug/kg at 2 feet bgs). Concentrations of PCE in ground water are as high as 14,000 ug/l and TCE as high as 1,100 ug/l, well above their Basin Plan Water Quality Objectives of 5 ug/l (Document No. 3). Site soil containing chlorinated solvent waste has not been removed, treated, or the affects of the discharge abated to protect water quality and the environment.

In a letter dated October 17, 2005 (Document No. 4), the Bulen Family Trust requested a public hearing at today's meeting to request rescission of Cleanup and Abatement Order No. R9-2005-0017.

KEY ISSUES: The discharge of chlorinated solvent waste to soil and ground water at the Site is not adequately defined. Chlorinated solvent waste has not been removed, treated, or the affects of the waste abated, thereby causing and threatening to cause a condition of pollution, contamination or nuisance as defined in California Water Code Section 13050.

LEGAL CONCERNS: The Bulen Family Trust has retained the law firm of Procopio, Cory, Hargreaves & Savitch LLP (PCHS) to represent them in this matter before the Regional Board. PCHS submitted material pertinent to this Item on October 26, 2005 (Document No. 5).

**SUPPORTING
DOCUMENTS:**

1. Transmittal letter dated August 23, 2005
2. Cleanup and Abatement Order No. R9-2005-0017
3. Technical Analysis for CAO R9-2005-0017
4. Letter from Procopio, Cory, Hargreaves & Savitch, LLP
5. Agenda Item Material from Procopio, Cory, Hargreaves & Savitch LLP
6. Site Maps

RECOMMENDATION: Affirmation of issuance of Cleanup and Abatement Order No. R9-2005-0017 is recommended.